

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE LUIS PASTOR, *individually and on behalf of
others similarly situated,*

Plaintiff,

-against-

ABC METRO CLEANERS, INC. (D/B/A ABC
CLEANER NYC), SAU YING WANG, DAVY
MAK, JOSE DOE, and EMY DOE,

Defendants.

18-CV-06089-AT

**SETTLEMENT AGREEMENT
AND RELEASE**

This Settlement Agreement and 1 Release of Claims ("Agreement") is entered into by and among the Individual Plaintiff Jose Luis Pastor ("Plaintiff") on the one hand, and ABC Metro Cleaners, Inc. (d/b/a ABC Cleaner NYC), ABC Metro Cleaners L.E.S., Inc. ("Defendant Corporation"), Sau Ying Wang, and Yu Han Chen ("Individual Defendants"), (collectively, "Defendants"), on the other hand.

WHEREAS, Plaintiffs alleges that he worked for Defendants as employees; and

WHEREAS, a dispute has arisen regarding Plaintiffs' alleged employment and the terms thereof, which dispute has resulted in the filing of an action in the United States District Court for the Southern District of New York, Civil Action No: 18-cv-06089 (AT) (hereinafter "the Litigation"), alleging, among other things, a violation of federal and state wage and hour and overtime laws;

WHEREAS, Defendants deny any violation of federal and state wage and hour and overtime laws; and

WHEREAS, the parties desire to resolve all disputes between them without the necessity of further litigation;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. Payment: Defendants shall pay or cause to be paid to Jose Luis Pastor, subject to the terms and conditions of this Agreement, and as full, complete, and final settlement and final satisfaction of any and all claims or potential claims Jose Luis Pastor may have against Defendants through the Effective Date of this Agreement, including all counsel fees and costs incurred by Plaintiffs, the gross sum of Twelve Thousand Five Hundred Dollars (\$12,500) (the "Settlement

Amount") to be paid to Plaintiffs' attorneys in six payments as follows:

- (a) A check in the amount of Three Thousand Dollars and Zero Cents (\$3,000.00) shall be due and payable thirty (30) days after court approval of the settlement Agreement. Check shall be made out to "Michael Faillace and Associates, P.C. as Attorney for Plaintiffs," Determination of the Plaintiff's share, counsel fees, and costs, is the responsibility solely of the Plaintiff and his counsel, subject to court approval. All payments set forth above shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., 60 East 42nd Street, Suite 4510, New York, NY 10165.
- (b) A check in the amount of One Thousand Nine Hundred Dollars and Zero Cents (\$1,900.00) shall be due and payable sixty (60) days after court approval of the settlement Agreement. Check shall be made out to "Michael Faillace and Associates, P.C. as Attorney for Plaintiffs," Determination of the Plaintiff's share, counsel fees, and costs, is the responsibility solely of the Plaintiff and his counsel, subject to court approval. All payments set forth above shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., 60 East 42nd Street, Suite 4510, New York, NY 10165.
- (c) A check in the amount of One Thousand Nine Hundred Dollars and Zero Cents (\$1,900.00) shall be due and payable ninety (90) days after court approval of the settlement Agreement. Check shall be made out to "Michael Faillace and Associates, P.C. as Attorney for Plaintiffs," Determination of the Plaintiff's share, counsel fees, and costs, is the responsibility solely of the Plaintiff and his counsel, subject to court approval. All payments set forth above shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., 60 East 42nd Street, Suite 4510, New York, NY 10165.
- (d) A check in the amount of One Thousand Nine Hundred Dollars and Zero Cents (\$1,900.00) shall be due and payable one-hundred twenty (120) days after court approval of the settlement Agreement. Check shall be made out to "Michael Faillace and Associates, P.C. as Attorney for Plaintiffs," Determination of the Plaintiff's share, counsel fees, and costs, is the responsibility solely of the Plaintiff and his counsel, subject to court approval. All payments set forth above shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., 60 East 42nd Street, Suite 4510, New York, NY 10165.
- (e) A check in the amount of One Thousand Nine Hundred Dollars and Zero Cents (\$1,900.00) shall be due and payable one hundred fifty (150) days after court approval of the settlement Agreement. Check shall be made out to "Michael Faillace and Associates, P.C. as Attorney for Plaintiffs," Determination of the Plaintiff's share, counsel fees, and costs, is the responsibility solely of the Plaintiff and his counsel, subject to court approval. All payments set forth above shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., 60 East 42nd Street, Suite 4510, New York, NY 10165.
- (f) A check in the amount of One Thousand Nine Hundred Dollars and Zero Cents (\$1,900.00) shall be due and payable one hundred eighty (180) days after court approval of the settlement Agreement. Check shall be made out to "Michael Faillace and Associates, P.C. as Attorney for Plaintiffs," Determination of the Plaintiff's share, counsel fees, and costs, is the responsibility solely of the Plaintiff and his counsel, subject to court approval. All payments

set forth above shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., 60 East 42nd Street, Suite 4510, New York, NY 10165.

2. No Admission of Wrongdoing: This Agreement and compliance with this Agreement shall not be construed as an admission by Defendants of any liability whatsoever, or of any violation of any statute, regulation, duty, contract, right or order.

3. Modification of the Agreement: This Agreement may not be changed unless the changes are in writing and signed by a proper representative of Plaintiff and Defendants.

4. Release

Except as otherwise stated, upon execution of this Agreement, all claims and/or potential claims by Plaintiff Jose Luis Pastor against Defendants in the Action, including but not limited to, claims for wages, liquidated damages related to wages, retaliation related to wages, and attorneys' fees related to wages, and without admission that Plaintiff has established that any such claims, have any merit, or that Plaintiff has incurred any damages, shall be deemed settled, satisfied and resolved.

5. Acknowledgment: Plaintiff acknowledges that he has been fully and fairly represented by counsel in this matter. Defendants acknowledge that they have consulted with counsel for the purpose of this Agreement.

Plaintiff and Defendants acknowledge that they are not relying upon any statement, representation or promise in executing this Agreement except for statements, representations or promises expressly set forth in this Agreement. They further acknowledge and agree that the only consideration for signing this Agreement is as set forth in this Agreement.

6. Notices: Notices required under this Agreement shall be in writing and shall be deemed given on the first business day following first-class mailing and electronic transmission thereof. Notice hereunder shall be delivered to:

To Plaintiffs:

Michael Faillace, Esq.
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd St. Suite 4510
New York, NY 10165
Tel: (212) 317-1200
Fax: (212) 317-1620
Email: michael@faillacelaw.com

To Defendants:

Chun W. Wong, Esq.
70 Bowery Street, Suite 401

New York, NY 10013
chunwonglaw@gmail.com

7. Governing Law: This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of New York, excluding the conflict-of-laws principles thereof. The parties consent and stipulate to the personal jurisdiction of the United States District Court for the Southern District of New York and the Supreme Court of the State of New York in any subsequent proceeding to enforce this Agreement.

8. Enforceability: If any provision of this Agreement is held to be illegal, void, or unenforceable, such provision shall be of no force or effect. However, the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the legality or enforceability of, any other provision of this Agreement, provided, however, that upon any finding by a court of competent jurisdiction that a release or waiver of claims or rights or a covenant set forth herein is illegal, void or unenforceable, Plaintiffs agree to promptly execute a release, waiver and/or covenant that is legal and enforceable.

9. Confession of Judgment

- (a) Upon signing of this settlement agreement, Defendants ABC Metro Cleaners, Inc., ABC Metro Cleaners L.E.S., Inc., Sau Ying Wang and Yu Han Chen shall execute the Confession of Judgment in the amount of twenty five thousand dollars (\$25,000.00) (attached hereto as Exhibit A), and counsel for the Plaintiff shall hold the Confession of Judgment in escrow except as otherwise set forth in subpart 2(b) below.
- (b) Plaintiff agrees that if Defendants fail to make a payment due under Paragraph 1 above, or if such payment is dishonored for any reason, Plaintiff's counsel will provide a fourteen (14) day notice to cure the Defendants' breach by sending written notice of the breach by mail and email transmission to Defendants at the address identified in paragraph 6. In the event that Defendants fail to timely cure within fourteen (14) days, the remaining unpaid balance of the Settlement sum shall become accelerated and shall become immediately due and payable and Plaintiffs shall be entitled to submit a judgment for entry by Affidavit of Confession of Judgments, annexed hereto as Exhibit B, or otherwise, without further notice against Defendants, jointly and severally, for \$25,000 less any partial payment(s) made.

10. Counterparts: To signify their agreement to the terms of this Agreement and General Release, the parties have executed this Agreement on the date set forth opposite their signatures, which appear below. This Agreement may be executed in two or more counterparts and each of such counterparts, for all purposes, shall be deemed to be an original but all of such counterparts together shall constitute but one and the same instrument, binding upon all parties

Plaintiff:

By: 

JOSE LUIS PASTOR

Defendants:

ABC METRO CLEANERS, INC

By: _____

Print Name: _____

ABC METRO CLEANERS L.E.S., INC

By: _____

Print Name: _____

By: _____
SAU YING WANG

By: _____
YU HAN CHEN

hereto, notwithstanding that all of such parties may not have executed the same counterpart. This agreement may also be executed by facsimile transmission.

Plaintiff:

By: _____
JOSE LUIS PASTOR

Defendants:

ABC METRO CLEANERS, INC

By: Xue Yu Lin
Print Name: XUE YU LIN

ABC METRO CLEANERS L.E.S., INC

By: Yuhanchen
Print Name: YU HANCHEN

By: SAU YING WANG
SAU YING WANG

By: YU HAN CHEN
YU HAN CHEN

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY

-----X

JOSE LUIS PASTOR, *individually and on
behalf of others similarly situated,*

Plaintiff,

AFFIDAVIT OF
CONFESION OF JUDGMENT

-against-

ABC METRO CLEANERS, INC. (D/B/A
ABC CLEANER NYC), ABE METRO
CLEANERS L.E.S. INC., SAU YING
WANG, , and YU HAN CHEN,

Defendants.

-----X

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

YU HAN CHEN, being duly sworn, deposes and says:

1. I, Yu Han Chen, am the Owner of ABC Metro Cleaners L.E.S., Inc. (d/b/a ABC
Cleaner NYC) and reside at 33-12 147st Flushing 11354.
2. I have authority to sign on behalf of myself, and on behalf of ABC Metro
Cleaners L.E.S., Inc. (d/b/a ABC Cleaner NYC) and am duly authorized to make this Affidavit
of Confession of Judgment on my own behalf and on behalf of ABC Metro Cleaners L.E.S., Inc.
(d/b/a ABC Cleaner NYC)).
3. I, Yu Han Chen, hereby confess judgment and authorize entry of judgment against
myself and ABC Metro Cleaners L.E.S., Inc (collectively, "Defendants"), jointly and severally,
in favor of Plaintiff for the sum of Twenty Five Thousand Dollars (\$25,000.00), less any
settlement monies already paid, pursuant to the terms of the Settlement Agreement and General
Release (the "Settlement Agreement"), entered into and signed by Plaintiff and Defendants in the

above-captioned proceeding, together with statutory costs pursuant to 28 U.S.C. §§ 1920, 1921, 1923, and 1924; and reasonable attorneys' fees incurred in entering and enforcing the judgment; and interest on the judgment as provided in 28 U.S.C. § 1961.

4. This Confession of Judgment is for a debt justly due to Plaintiff pursuant to the Settlement Agreement.

5. The Settlement Agreement arises out of the above-captioned action, which was settled pursuant to a written agreement approved by the United States District Court, Southern District of New York, whereby the Defendants agreed to pay Plaintiffs the total sum of \$12,500 with an initial payment of \$3,000 due within thirty (30) days of Court approval of the Settlement agreement, and five subsequent payments of \$1,900.00 every thirty days thereafter.

6. I hereby represent my understanding that upon Defendants' breach of the Settlement, Plaintiff shall have the unqualified right to cause this Confession of Judgment to be docketed and entered in this Court as a judgment against all Defendants, jointly and severally, against all property, of any kind, in which I and/or the corporation stated herein, collectively or individually, have any ownership interest.

7. The original of this Affidavit of Confession of Judgment shall remain in the possession of Plaintiff's counsel, Michael Faillace & Associates, P.C., and the original shall be destroyed upon completion of the payment obligations contained in the annexed Agreement and Release.

yuhanchen

Yu Han Chen
Individually, and as owner of ABC Metro Cleaners
L.E.S., Inc. (d/b/a ABC Cleaners NYC)

Sworn to and subscribed before me this
25th day of October, 2018


NOTARY PUBLIC

CHUN W. WONG
Notary Public, State of New York
No. 02WC5057243
Qualified in New York County
Commission Expires March 18, 2020